

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

THOMAS M. WILLIAMS,

:
Plaintiff,

:
vs.

Case No. 3:11cv249

METLIFE DISABILITY, et al.,

:
JUDGE WALTER HERBERT RICE

:
Defendants.

PRELIMINARY PRETRIAL CONFERENCE ORDER;
PROCEDURES SUGGESTED TO COUNSEL

The captioned cause came on to be heard upon a preliminary pretrial conference on Monday, October 17, 2011.

Given that the captioned cause represents a claim for disability benefits under an ERISA regulated employee welfare benefit plan, this Court takes the position that discovery and, consequently, additional evidence is not appropriate. *Wilkins v. Baptist Healthcare Systems, Inc.*, 150 F.3d 609 (6th Cir. 1998). Rather, the question of whether the Plaintiff is entitled to benefits must be resolved on the administrative record, as it existed when considered by the body which made the decision with which Plaintiff seeks to challenge in this litigation. However, an exception may exist herein, given that Defendant is raising a statute of limitations

defense. Should Defendant wish to offer additional evidence on that point, the Court must be notified no later than November 17, 2011. A telephone conference call will then be convened, between Court and counsel, to determine what evidence Defendant feels is needed (and what evidence Plaintiff might need, as a result), and whether an oral and evidentiary hearing on that matter will be necessary or, rather, whether the matter might be resolved on the administrative record, stipulated evidence and briefs.

If no further discovery and/or evidentiary hearing is needed on the statute of limitations issue, the complete administrative record in this matter must be filed not later than December 17, 2011. Simultaneous memoranda on the merits of the appeal, which should include any briefing on the statute of limitations issue, must be filed 60 calendar days thereafter from the filing of the administrative record, with any reply memoranda being due, on a simultaneous basis, 30 calendar days thereafter. Should an oral and evidentiary hearing be necessary on the statute of limitations issue, the Court reserves the right to alter this schedule, in order that the statute of limitations issue might be resolved prior to the briefing on the merits of the appeal, should said merits survive this Court's decision on the statute of limitations.

October 20, 2011



WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of Record